

13 September 2017

Prime Minister Bill English
Intelligence and Security Committee
Parliament Buildings
Wellington 6160
New Zealand

Re: Oversight of intelligence sharing between your government and foreign governments

Dear Prime Minister English and Members of the Committee,

We are writing to share our concerns about the lack of transparency of intelligence sharing arrangements between your government and foreign governments, and to seek information from you about your oversight of these intelligence sharing arrangements.

Privacy International is a United Kingdom-based non-governmental organisation. Founded in 1990, it is the first organization to campaign on privacy issues at an international level. It undertakes research and investigations into government and corporate surveillance with a focus on the technologies that enable these practices. It litigates or intervenes in cases implicating the right to privacy in courts around the world. To ensure universal respect for the right to privacy, it advocates for strong national, regional and international laws that protect this right.

The Aotearoa New Zealand Human Rights Lawyers Association is a non-partisan independent group dedicated to the study and advancement of human rights in New Zealand and abroad. Most of its members are New Zealand lawyers, but the membership also includes legal academics, law students, and members of the public with relevant interest and expertise.

The effective oversight of secret surveillance is among the fundamental guarantees against a government's unlawful interference with the right to privacy. But in many countries around the world, there is an alarming lack of effective oversight of arrangements to exchange intelligence with other countries. Yet, the interference with privacy remains the same regardless of whether a government conducts direct surveillance or obtains information from another government. Just as government surveillance must be transparent and subject to adequate safeguards and oversight, so too must intelligence sharing arrangements.

In the attached briefing, Privacy International elaborates on the international human rights implications of intelligence sharing between governments and offers recommendations to national intelligence oversight bodies. Privacy International is sharing this briefing with oversight bodies in over 40 countries as part of a project to increase transparency around intelligence sharing and to encourage oversight bodies to scrutinise the law and practice of intelligence sharing in their respective countries.

As a national body mandated to oversee the activities of the intelligence agencies, we believe the Intelligence and Security Committee is in the best position to respond to our questions below:

- Is the government and/or are the intelligence agencies required to inform you about intelligence sharing arrangements they have made with other governments?
- Does your mandate include independent oversight of the intelligence sharing activities of your government?
- Do you have the power to access in full all relevant information about the intelligence sharing activities of your government?
- Do you have the power to review decisions to share intelligence and/or undertake independent investigations concerning the intelligence sharing activities of your government?
- Do you cooperate with any other oversight bodies, domestic or foreign, to oversee the intelligence sharing activities of your government?

We would appreciate a response by 31 October 2017 and would be grateful if you could share with us non-confidential work products reflecting your answers to the above.

Please do not hesitate to contact Scarlet Kim, Legal Officer at Privacy International (scarlet@privacyinternational.org), if you have any questions.

Thank you for your attention to this matter.

Sincerely,

Dr. Gus Hosein
Executive Director
Privacy International

David Tong
Executive Board Member
Aotearoa New Zealand Human Rights Lawyers Association